

# **EXHIBIT A**

**From:** [Brandy Peery](#)  
**To:** [Nicole Guitelman](#)  
**Cc:** [Tor Ekeland](#); [Ricardo Cedillo](#); [David Apple](#)  
**Subject:** RE: [External] Re: Cantu v. Guerra and DFC  
**Date:** Wednesday, May 18, 2022 10:21:00 AM

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We will advise the Court of your opposition to the Scheduling Order it entered on February 25, 2022.

You still have not provided us with deposition dates. As stated in my prior emails, we are willing to extend the discovery period to accommodate your clients' request for Zoom depositions. In light of David's surgery on June 21, we are proposing July 6 or 7 for your clients' depositions. We would also be willing to conduct their Zoom depositions on Saturday, July 9<sup>th</sup> or Sunday, July 10<sup>th</sup>, subject to David's availability and the availability of a court reporter.

**Brandy C. Peery**  
**Shareholder**



**Note: New Suite Number**

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ADDRESS: 755 E. Mulberry Ave., Suite 250  
San Antonio, Texas 78212

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**From:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>  
**Sent:** Wednesday, May 18, 2022 10:12 AM  
**To:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>  
**Cc:** Tor Ekeland <[tor@torekeland.com](mailto:tor@torekeland.com)>; Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>; David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>  
**Subject:** Re: [External] Re: Cantu v. Guerra and DFC

Good morning Brandy,

We have already mediated with Dr. Guerra in this matter, and see no value in spending our client's money on additional mediation, given your expressed position at the last one.

We are unaware of any mediation requirement or requirement by order of the court. Please feel free to forward us your motion.

Kind Regards,  
Nicole Guitelman  
Law Clerk  
Tor Ekeland Law, PLLC  
30 Wall Street,  
8th Floor  
New York, NY 10005-2205  
(718) 737-7264

[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)  
[www.torekeland.com](http://www.torekeland.com)

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**From:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>  
**Date:** Wednesday, May 18, 2022 at 9:37 AM  
**To:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>  
**Cc:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>, Tor Ekeland <[tor@torekeland.com](mailto:tor@torekeland.com)>, Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>, David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>  
**Subject:** RE: [External] Re: Cantu v. Guerra and DFC

Ms. Guitelman-

We still have not received a response from you to the email I sent you yesterday at 1:25 p.m. CST. Please advise whether you and your clients intend to comply with the Court's order requiring the parties to return to mediation. If we do not receive a response from you by 12:00 p.m. CST today, we will proceed with filing our Motion to Compel and for Sanctions.

I checked Don Philbin's availability again this morning. He is no longer available on July 7<sup>th</sup>. However, he is still available for Zoom mediation on July 11<sup>th</sup> and 12<sup>th</sup>. We need to get on his calendar as soon as possible.

**Brandy C. Peery**  
**Shareholder**



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---

**From:** Brandy Peery

**Sent:** Tuesday, May 17, 2022 6:59 PM

**To:** David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>

**Cc:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>; Tor Ekeland <[tor@torekeland.com](mailto:tor@torekeland.com)>; Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>

**Subject:** Re: [External] Re: Cantu v. Guerra and DFC

I apologize, David. If it helps, perhaps we can do depositions on June 27, July 6 or 7 and then mediate on July 11 or 12th to give you more time to recuperate?

Sent from my iPhone

On May 17, 2022, at 6:28 PM, David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)> wrote:

Remember that my hip replacement surgery is June 21 and I will be on heavy pain meds for a few days according to the doctor, so I would prefer not to do anything that week. I am also in mediation the morning of June 20.

J. David Apple  
APPLE & FINK, LLP  
735 Plaza Blvd.  
Suite 200  
Coppell, Texas 75019  
(972) 315-1900 x223  
(972) 315-1955 fax  
[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)

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On Tue, May 17, 2022 at 1:25 PM Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)> wrote:

Nicole-

Mediation is not optional. The Court *ordered* the parties back to mediation. If you and your clients refuse to comply with the Court's order, we will file a Motion to Compel and for Sanctions and advise the Court accordingly. Please let me know today so we can get our Motion on file. If your clients intend to comply with the Court's Order, please advise today as to your and your clients' availability for a Zoom mediation on July 6, 7, 11, or 12.

We asked for dates for your clients' depositions almost 2 weeks ago on May 6<sup>th</sup> and heard nothing back from you. You still have not provided any dates in your email below. It is already late-May and our "early June" calendars are already full. We will agree to Zoom depositions as an accommodation, but only on the dates proposed of June 20, 21, 23, 24, or 27.

**Brandy C. Peery**  
Shareholder



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**From:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>

**Sent:** Tuesday, May 17, 2022 1:04 PM

**To:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>; David Apple  
<[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>

**Cc:** Tor Ekland <[tor@torekeland.com](mailto:tor@torekeland.com)>; Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>

**Subject:** Re: [External] Re: Cantu v. Guerra and DFC

Good afternoon,

Thanks for checking in.

Brandy, in regards to the mediation, we need to know what has changed from the previous mediation offer. Our clients have mediated with Dr. Guerra multiple times in the past and are left with the notion that your client never had an interest in a

resolution. Therefore, we request to know what has changed for your client this time around. Additionally, if we are to go the mediation route again, we would only consider half a day with Don.

Brandy and David, in regards the depositions, would both of you be agreeable to have them via Zoom? If so, we agree to extend the same courtesy for our deposition requests of your clients. I can let you know which dates are best for our clients, but I believe early June will be best for depositions via Zoom.

Good luck with the surgery David, hope you feel better.

Kind Regards,  
Nicole Guitelman  
Law Clerk  
Tor Ekeland Law, PLLC  
30 Wall Street,  
8th Floor  
New York, NY 10005-2205  
(718) 737-7264

[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)  
[www.torekeland.com](http://www.torekeland.com)

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**From:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>

**Date:** Tuesday, May 17, 2022 at 10:34 AM

**To:** David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>, Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>

**Cc:** Tor Ekeland <[tor@torekeland.com](mailto:tor@torekeland.com)>, Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>

**Subject:** RE: [External] Re: Cantu v. Guerra and DFC

All-

Don Philbin has since become booked up through June 30<sup>th</sup> while we've been awaiting Plaintiffs' response. Our June calendars have been filling up as well. Philbin is currently available July 6-7 and the week of July 11<sup>th</sup>. The deadline to mediate is June 29<sup>th</sup>, but I believe we can, by agreement, schedule mediation on one of these July dates, especially in light of the 4<sup>th</sup> of July holiday falling so close to the June 29<sup>th</sup> deadline. The deadline to file dispositive motions is July 13 so I propose that we mediate before this deadline.

We propose the following:

- Extend the discovery deadline to June 30<sup>th</sup> (the Scheduling Order allows us to do so by agreement)
- Schedule the in-person depositions of Plaintiffs on June 20, 21, 23, 24, or 27
- Mediate (in person or Zoom) on July 6, 7, 11, or 12

We need to get on Philbin's calendar as soon as possible. We are confirming our clients' availability regarding the July mediation dates and will let everyone know as soon as possible. Please let us know **today** if you are agreeable with the foregoing.

**Brandy C. Peery**  
Shareholder



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**From:** David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>

**Sent:** Tuesday, May 17, 2022 9:02 AM

**To:** Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>

**Cc:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>; Tor Ekland <[tor@torekeland.com](mailto:tor@torekeland.com)>;  
Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>

**Subject:** Re: [External] Re: Cantu v. Guerra and DFC

Any update on the depositions and mediation? I would be grateful to get these dates on my calendar so I can plan accordingly given my upcoming surgery. Thank you.

J. David Apple  
APPLE & FINK, LLP  
735 Plaza Blvd.  
Suite 200  
Coppell, Texas 75019  
(972) 315-1900 x223

(972) 315-1955 fax

[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)

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On Mon, May 9, 2022 at 9:49 AM Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)> wrote:

Thanks Brandy.

We'll discuss the mediation and deposition dates with our clients and get back to you.

Best,  
Nicole Guitelman  
Law Clerk  
Tor Ekeland Law, PLLC  
30 Wall Street,  
8th Floor  
New York, NY 10005-2205  
(718) 737-7264

[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)  
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**From:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>

**Date:** Friday, May 6, 2022 at 11:56 AM

**To:** David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>

**Cc:** Tor Ekeland <[tor@torekeland.com](mailto:tor@torekeland.com)>, Nicole Guitelman <[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>, Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>

**Subject:** RE: [External] Re: Cantu v. Guerra and DFC



We are not opposed to a Zoom mediation on the 27<sup>th</sup> or 28<sup>th</sup> and Don Philbin is willing to mediate via Zoom on those dates. Nicole/Tor – Please let us know your and your clients availability for Zoom mediation on June 27<sup>th</sup> or 28<sup>th</sup>,

Tor/Nicole - As to the in-person depositions, please let us know your and your clients' availability for their depositions on June 9<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> or 17<sup>th</sup>.

**Brandy C. Peery**  
Shareholder



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**From:** David Apple <[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)>  
**Sent:** Friday, May 6, 2022 10:35 AM  
**To:** Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)>  
**Cc:** Tor Ekland <[tor@torekeland.com](mailto:tor@torekeland.com)>; Nicole Guitelman  
<[nicoleg@torekeland.com](mailto:nicoleg@torekeland.com)>; Ricardo Cedillo <[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)>  
**Subject:** [External] Re: Cantu v. Guerra and DFC

I will not be available for an in person mediation after June 19 due to hip replacement surgery. My client and I should be able attend a Zoom mediation beginning the week of June 27th. As to in person depositions, those would also have to be prior to June 19. Otherwise, my client and I would only be able to attend via Zoom beginning the week of June 27.

J. David Apple  
APPLE & FINK, LLP  
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Suite 200  
Coppell, Texas 75019  
(972) 315-1900 x223

(972) 315-1955 fax  
[jdapple@applefinklaw.com](mailto:jdapple@applefinklaw.com)

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On Fri, May 6, 2022 at 10:36 AM Brandy Peery <[bpeery@lawdcm.com](mailto:bpeery@lawdcm.com)> wrote:

Nicole-

Will you please provide us with Dr. Cantu's and Mrs. Cantu's availability for their in-person depositions on June 9<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, or 15<sup>th</sup>? The discovery deadline expires on June 15<sup>th</sup>, however, pursuant to the Court's order, we are willing to agree to schedule their depositions after this deadline if that works better with your schedules.

In addition, the deadline for mediation is June 29, 2022. We propose an in-person mediation using Don Philbin again as our mediator since he is already familiar with the case <http://www.donphilbin.com/>. He is currently available, June 20, 21, 23, 24, 27 and 28. Please let us know if anyone has any objections to using Don Philbin and whether you and/or clients have any conflicts on any of these dates.

**Brandy C. Peery**  
Shareholder

**dc&m** | Davis, Cedillo & Mendoza, INC.  
ATTORNEYS AT LAW

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**From:** [Brandy Peery](#)  
**To:** [Tor Ekeland](#); [Nicole Guitelman](#); [David Apple](#)  
**Cc:** [Ricardo Cedillo](#)  
**Subject:** Cantu v. Guerra and DFC  
**Date:** Friday, May 6, 2022 10:36:00 AM

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Nicole-

Will you please provide us with Dr. Cantu's and Mrs. Cantu's availability for their in-person depositions on June 9<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, or 15<sup>th</sup>? The discovery deadline expires on June 15<sup>th</sup>, however, pursuant to the Court's order, we are willing to agree to schedule their depositions after this deadline if that works better with your schedules.

In addition, the deadline for mediation is June 29, 2022. We propose an in-person mediation using Don Philbin again as our mediator since he is already familiar with the case <http://www.donphilbin.com/>. He is currently available, June 20, 21, 23, 24, 27 and 28.

Please let us know if anyone has any objections to using Don Philbin and whether you and/or clients have any conflicts on any of these dates.

**Brandy C. Peery**  
Shareholder



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